

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. **05-MSRC-005**

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

FINAL ORDER FOR ALGER B. JENT

ALGER B. JENT, JERRY D. MORGAN &
JAMES E. BYRD

RESPONDENTS

* * * * *

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant, Office of Mine Safety and Licensing (OMSL) and Respondent Alger B. Jent, by counsel, and the members of the Commission having reviewed the Settlement Agreement filed on or about August 31, 2006 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY **ORDERED** as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The formal hearing and pre-hearing conference are **CANCELLED**;
3. The **Settlement Agreement** signed by the parties and filed with the Commission is hereby **incorporated by reference** as if reproduced herein in full as a material part of this **FINAL ORDER**.

A copy is attached hereto;

4. This Final Order only resolves the matters referenced herein, and any new enforcement action or subsequent penalties imposed during any probationary period are in addition to and not in lieu of those that may be sought by OMSL for the acts or omissions during that probationary period. This Final Order in no way prohibits OMSL from investigating or filing legal action based upon other activities or omissions by the Respondent not arising from the factual basis of the original violation and resolved herein.
5. This Final Order shall be considered to constitute a “first offense” as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent, resulting in an adjudication of guilt by the Commission, shall be deemed “subsequent offenses” as defined by 805 KAR 8:010, Section 1(13);
6. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, in these matters. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission; and
7. Appellate rights: Pursuant to KRS 351.194(8) and KRS 13B.140(1), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order. The petition shall include the names and addresses of all parties of record in this proceeding and shall include a statement of the grounds upon which review is requested. A copy

of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

Entered this the 14TH day of September 2006.



Denise Moore Davidson, Chair
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing FINAL ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this 15TH day of September 2006:

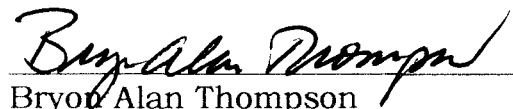
HON. ANGELA HATTON MULLINS
21 N. WEBB AVE.
WHITESBURG, KY 41858
Attorney for ALGER B. JENT

And by messenger mail to:

HON. C. MICHAEL HAINES,
GENERAL COUNSEL
OFFICE OF LEGAL SERVICES
NATURAL RESOURCES LEGAL DIVISION
#2 HUDSON HOLLOW
FRANKFORT KY 40601
502/ 564- 2356
FAX 502/ 564 - 9212

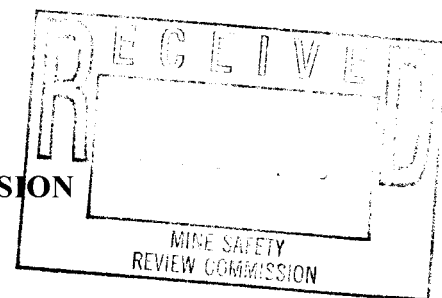
And the original shall be kept on file:

Mine Safety Review Commission
132 Brighton Park Blvd.
Frankfort Ky 40601

A handwritten signature in cursive script, reading "Bryon Alan Thompson", is written over a horizontal line.

Bryon Alan Thompson
Hearing Officer & General Counsel
Mine Safety Review Commission

**COMMONWEALTH OF KENTUCKY
KENTUCKY MINE SAFETY REVIEW COMMISSION
Administrative Action No. 05-MSRC-005**



KENTUCKY OFFICE OF MINE SAFETY & LICENSING

COMPLAINANT

V. SETTLEMENT AGREEMENT BETWEEN OMSL & ALGER JENT

**ALGER JENT, JAMES BYRD &
JERRY MORGAN**

RESPONDENTS

* * * * *

Come the Complainant, the Kentucky Office of Mine Safety & Licensing (“OMSL”), and Respondent Alger Jent (“Jent”) and hereby state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

In consideration for the final resolution of this action against him, and the cancellation of the hearing (as it pertains to him) that was scheduled for August 10, 2006, Jent hereby admits that he was superintendent at the Rama Development Company, Inc.’s Number 4 Mine (mine), as alleged in OMSL’s Complaint, and therefore responsible for the immediate compliance with all safety laws under KRS 352.350. Therefore, Jent hereby agrees to the following:

1. The probation for a period of two (2) years of his: underground mine foreman’s certificate (# A-792-82); assistant underground mine foreman’s certificate (#A-173-78); and, his underground miner’s certificate. The probation period shall be effective upon the acceptance and entry of this Settlement Agreement by the Mine Safety Review Commission.


2. During this two-year probationary period, Jent shall comply with all state and federal mine safety laws and regulations. The willful violation by Jent of any of said laws or

regulations may result in OMSL filing a motion with the Mine Safety Review Commission to revoke any or all of his certificates for the remainder of the probationary period.

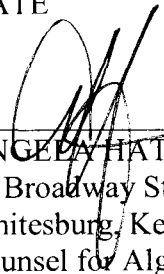
Jent further agrees that this Settlement Agreement and any final order issued herein by the Mine Safety Review Commission will be considered by the Commission to constitute a "first offense", as that term is defined at 805 KAR 8:010, Section 1(13).

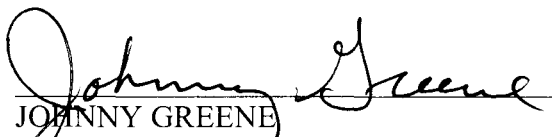
Jent states that he and his counsel have carefully read this Settlement Agreement (or that the Settlement Agreement has been read to him), that they have carefully considered the Agreement prior to signing it, and that he understands and agrees to its terms and provisions.

OMSL and Jent acknowledge and agree that there are no further promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.



ALGER JENT
P.O. Box 126
Kite, Kentucky 41828

8-28-06
DATE


ANGELA HATTON MULLINS
52 Broadway Street, Suite A
Whitesburg, Kentucky 41858
Counsel for Alger Jent


JOHNNY GREENE
Acting Executive Director
KY Office of Mine Safety & Licensing
P.O. Box 2244
Frankfort, Kentucky 40602

8-31-06
DATE


C. MICHAEL HAINES, General Counsel
Office of Legal Services
Natural Resources Legal Division
KY Office of Mine Safety & Licensing
#2 Hudson Hollow
Frankfort, Kentucky 40601

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Settlement Agreement Between OMSL and Alger Jent was mailed this 31st day of August, 2006, to:

Angela Hatton Mullins, Esq.
52 Broadway Street, Suite A
Whitesburg, KY 41858



C. MICHAEL HAINES, GENERAL COUNSEL

OFFICE OF LEGAL SERVICES
NATURAL RESOURCES LEGAL DIVISION
KY OFFICE OF MINE SAFETY & LICENSING